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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JAMES ALGER,

Plaintiff,

vs.

TARPY'S ROADHOUSE, LLC; BLUE  
OCEAN VENTURE HOLDINGS, INC;  
DOWNTOWN DINING, INC.; RIO  
RESTAURANTS CORPORATION;  
COSTAL ROOTS HOPSITALITY;  
JAMES D. MEADOR; LUANN S.  
MEADOR;

Defendants

**Case No. 25-cv-5762**

***Civil Rights***

**COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF AND  
DAMAGES**

JAMES ALGER (“Plaintiff”) complains of TARPY’S ROADHOUSE, LLC; BLUE OCEAN VENTURE HOLDINGS, INC; DOWNTOWN DINING, INC.; RIO RESTAURANTS CORPORATION; COASTAL ROOTS HOSPITALITY; JAMES D. MEADOR; LUANN S. MEADOR (collectively, “Defendants”) as follows:

### **INTRODUCTION**

1. This is a civil rights action involving the lack of disabled access to the building, structure, facility, complex, property, land, development, and/or business located at or about 2999 Salinas Hwy Monterey, CA 93940 known as Tarpy’s Roadhouse (“Restaurant” or “Tarpy’s”). During his visit to Tarpy’s, Plaintiff repeatedly encountered accessibility barriers, including, but not limited to, because Defendants’ parking and paths of travel at Tarpy’s were inaccessible to persons that rely on mobility aids, including Plaintiff.

2. Defendants’ lack of accessible facilities denied and continue to deny “full and equal” access required by Title III of the Americans with Disabilities Act of 1990 and related California civil rights laws. As a result, Plaintiff has been continuously denied full and equal access to Tarpy’s and has been embarrassed and humiliated. Plaintiff seeks damages and injunctive relief requiring provision of access under the Americans with Disabilities Act of 1990 (“ADA”) and injunctive relief for full and equal access and damages under California law. Plaintiff also seeks declaratory relief and recovery of reasonable statutory attorney fees, litigation expenses and costs under federal and state law.

### **JURISDICTION AND VENUE**

2. Plaintiff brings this action as a private attorney general pursuant to 42 U.S.C. § 12188 and 28 C.F.R. § 36.501(a), having been personally subjected to discrimination on the basis of his disability. These provisions expressly authorize private individuals to seek injunctive relief to enforce the public rights guaranteed under Title III of the Americans with Disabilities Act.

3. This Court has subject-matter jurisdiction of this action under 28 U.S.C. § 1331 for violations of the ADA, 42 U.S.C. §§ 12101 *et seq.* Under supplemental jurisdiction, attendant and related causes of action, arising from the same facts, are also brought under California law,

1 including, but not limited to, violations of Health and Safety Code and the Unruh Civil Rights  
2 Act.

3 4. Venue is proper in this court under 28 U.S.C. § 1391(b) and is founded on the fact that  
4 the real property that is the subject of this action is in this District and that Plaintiff's causes of  
5 action arose in this District.

6 5. **Intradistrict Assignment:** This case should be assigned to the San Jose intradistrict as  
7 the real property which is the subject of this action is in this intradistrict and Plaintiff's claims  
8 arose in this intradistrict.

9 **PARTIES**

10 6. Plaintiff JAMES ALGER ("Plaintiff") is, and at all times relevant was, a qualified  
11 individual with a physical disability. He has been diagnosed with Charcot-Marie-Tooth disease  
12 ("CMT"), a progressive, inherited neuropathy that affects the peripheral nerves responsible for  
13 motor and sensory function in the hands, arms, legs, and feet. A subsequent work injury  
14 accelerated the progression of his symptoms. As a result, Plaintiff experiences severe difficulty  
15 walking, impaired fine motor coordination, and limited range of motion. He requires the use of a  
16 a wheelchair or scooter for mobility ("Wheelchair") for mobility, and drives a vehicle equipped  
17 with hand controls. Plaintiff is also the holder of a permanent disabled parking placard issued by  
18 the State of California, which has been assigned to him continuously since approximately 1994.

19 7. Defendants are and at all relevant times were the owners, operators, lessors, and/or  
20 lessees of the subject business, property, and buildings relevant to this Complaint.

21 8. Defendants failed to ensure that the accommodations, goods, services, and opportunities  
22 were accessible to Plaintiff and other members of the public who have physical disabilities.  
23 Defendants' failure to comply with federal and state access laws proximately caused the  
24 violations and ongoing violations and damages to Plaintiff complained of here.

25 9. Plaintiff is informed and believes, and on such information alleges, that at all times  
26 mentioned here, Defendants, and each of them, were the agents, servants, employees, and  
27 representatives of each of the other Defendants, and performed all acts and omissions stated here

1 within the scope of such agency or employment or representative capacity, and/or as part of a  
 2 joint venture and common enterprise with one or more of the other Defendants, and are  
 3 responsible in some manner for the acts and omissions of the other Defendants in proximately  
 4 causing the damages complained of here. All actions alleged here were done with the knowledge,  
 5 consent, approval, and ratification of each of Defendants here, including their managing agents,  
 6 owners, and representatives.

### 7 **FACTUAL ALLEGATIONS**

8 10. Defendants discriminated against Plaintiff by failing to ensure that the Restaurant's  
 9 amenities and policies comply with the requirements of the ADA. Defendants have not provided  
 10 individuals with disabilities—including Plaintiff—with full, equal, and independent access to the  
 11 same services, benefits, and accommodations offered to nondisabled patrons.

12 11. Specifically, the Restaurant and its facilities, including, but not limited to, its  
 13 entrances/exits, parking, interior paths of travel, transaction counters, restrooms, are inaccessible  
 14 to Plaintiff and cause him difficulty to use. Each is also a "public accommodation" and part of a  
 15 "business establishment," subject to the requirements of § 301(7) of the ADA (42 U.S.C. §  
 16 12181(7)).

17 12. On information and belief, Tarpy's and its facilities have, since January 26, 1993,  
 18 undergone construction, alterations, structural repairs, and/or additions, subjecting the facility to  
 19 disabled access requirements of § 303 of the ADA (42 U.S.C. § 12183). Such facilities  
 20 constructed or altered since 1982 are also subject to "Title 24," the California State Architect's  
 21 Regulations. Irrespective of the Restaurant's construction and alteration history, removal of the  
 22 access barriers at the subject premises are subject to the "readily achievable" barrier removal  
 23 requirements of Title III of the ADA.

24 13. Plaintiff holds annual passes to multiple theme parks and attractions, including the  
 25 Monterey Bay Aquarium, which provides access to the aquarium throughout the year.

26 14. On the evening of July 5, 2025, Plaintiff, who was visiting the Monterey Bay Aquarium  
 27 over the July 4 weekend, was traveling along State Route 68 following a day at the aquarium.

1 Tarpy's is located approximately six miles from the aquarium and sits directly along the natural  
2 connection between Monterey and U.S. Route 101, making it a convenient and logical stop for  
3 Plaintiff and other travelers entering or leaving the area. Because Plaintiff must pass this location  
4 in both directions when visiting Monterey, it serves as an ideal option for lunch on the way in or  
5 dinner on the way out. One of the reasons Plaintiff chose Tarpy's in particular was because of  
6 explicit representations online that one of its features was ADA compliant facilities  
7 (<https://tarpys-roadhouse.cuba-cafe.com>). This type of representation is exceedingly rare; most  
8 businesses avoid detailing their accessible features or leave them entirely unmentioned. For  
9 members of the disability community, this absence often signals that accessibility is an  
10 afterthought. As someone who is used to being overlooked or marginalized by hospitality  
11 providers, Plaintiff viewed this accessibility representation as a promising and welcome gesture.  
12 It indicated not just legal compliance, but a conscious effort to acknowledge and include disabled  
13 patrons. On this occasion, Plaintiff stopped for dinner and enjoyed a well-prepared meal—  
14 consistent with Tarpy's reputation as a popular and well-regarded local restaurant. Its favorable  
15 location along a familiar and frequently traveled route, combined with the quality of the dining  
16 experience and the advertised accessibility, made it a practical and attractive stop during trips to  
17 the region.

18 15. Upon pulling into the parking lot from the Monterey-Salinas Highway, Plaintiff  
19 immediately observed that the designated disabled parking spaces lacked several required  
20 accessibility features. While faint and deteriorated pavement markings suggested where  
21 accessible spaces had once been designated, there were no upright signs displaying the  
22 International Symbol of Accessibility, no signage indicating van accessibility, and no "NO  
23 PARKING" warnings marked within the access aisles. The layout itself was problematic: the  
24 accessible parking was split, with two spaces located on the right side of the entrance drive and  
25 one isolated space on the left, closer to the restaurant entrance. Strikingly, there appeared to be  
26 ample room to locate all three spaces together on the left side of the drive, where pedestrian  
27 access to the entrance would be more direct, safer, and more consistent with accessibility best

1 practices. The two right-side spaces lacked any designated pedestrian route, forcing disabled  
2 patrons to navigate across an active vehicle drive lane to reach the entrance. Meanwhile, the lone  
3 space on the left side—while closer to the entrance—lacked an access aisle entirely, making it  
4 unusable for most wheelchair users. In fact, upon arrival, there was a vehicle with a disabled  
5 placard displayed belonging to another guest at the restaurant, that had to park partially into the  
6 adjacent space so that the guest would have room to transfer. The access aisles striping and  
7 markings were exceptionally faded, especially in low-light conditions.

8 16. Based on these initial observations, Plaintiff's intent was simply to send the  
9 establishment a courtesy letter—advising them of the applicable federal and state signage  
10 requirements, including the need to post penalty warnings and towing enforcement language. As  
11 someone who has been personally affected by the misuse of unmarked accessible spaces,  
12 Plaintiff understands the real-world consequences of such omissions—but nevertheless does not  
13 believe that every technical violation warrants federal litigation in the absence of more serious  
14 deficiencies. In Plaintiff's experience, the disabled parking area tends to be a window into the  
15 soul of the business establishment when it comes to accessibility. So, Plaintiff believes that if  
16 one is talking about just a few signs and some paint, that is not something that Plaintiff feels is  
17 deserving of federal litigation. It is when it goes beyond that, or if a business becomes intransigent  
18 and refuses to comply with the ADA that litigation is initiated, as is the case here. .

19 17. Upon exiting his vehicle and attempting to transfer into his wheelchair, Plaintiff  
20 experienced significant and unexpected difficulty due to the slope and cross-slope of the space.  
21 The angle of the surface interfered with his balance and mobility, forcing him to navigate an  
22 unstable transition into his chair. What initially appeared to be a minor noncompliance issue  
23 quickly became a more serious and immediate concern. The angle of the pavement made  
24 standing feel precarious, introduced the risk of falling or tipping, and required extra physical  
25 effort and caution for even the most basic movements. .

26 18. In addition to the lack of required signage and excessive sloping, Plaintiff observed that  
27 there was no designated accessible route of travel from the disabled parking spaces to the

1 restaurant entrance. The layout of the lot forces individuals parked in two of the three accessible  
2 spaces to cross an active driveway with no marked pedestrian path, no striping, no curb ramp,  
3 and no physical separation from moving vehicles. The travel route from those spaces offers no  
4 safe or direct access to the building—conditions that stand in direct contradiction to the intent of  
5 federal and state accessibility laws, which require not just proximity, but safe, uninterrupted, and  
6 clearly marked passage. What makes the situation more perplexing is that the restaurant already  
7 has one accessible, albeit noncompliant, space located near the entrance on the opposite side of  
8 the driveway, and there appears to be more than enough room in that area to relocate all  
9 accessible parking spaces into a single, properly marked, and code-compliant location. Instead,  
10 the current configuration requires Plaintiff and other disabled patrons to navigate an  
11 unnecessarily hazardous path across an open vehicle drive lane—an arrangement that prioritizes  
12 driver convenience over pedestrian safety. For Plaintiff, this was not just an inconvenience; it  
13 was a stark example of how poor planning and noncompliance can turn a routine visit into a  
14 dangerous and frustrating experience.

15 19. Upon entering the property, Plaintiff passed an outdoor patio area used for dining. Based  
16 on visual observation, the patio tables did not appear to offer any spaces clearly designed to  
17 accommodate wheelchair users—none appeared to be designated as accessible or arranged in a  
18 manner that would facilitate integrated wheelchair seating. Due to the unseasonably cold weather  
19 that evening, Plaintiff did not attempt to sit outside and proceeded indoors. Inside the restaurant,  
20 there was no signage or other indication that any tables were specifically designated as  
21 accessible. The first table offered by staff was too small to accommodate Plaintiff while  
22 remaining in his mobility device. Requesting a different table in front of other diners was  
23 uncomfortable and embarrassing, highlighting the kind of public scrutiny that individuals with  
24 disabilities routinely endure. The staff responded with professionalism and courtesy, offering to  
25 move tables and make adjustments as needed, but their ability to resolve the issue was limited by  
26 the layout and furniture available. Although Plaintiff was eventually seated and able to dine, the  
27 experience involved unnecessary difficulty and discomfort that could have been avoided with

1 even minimal consideration of accessibility in the restaurant's design.

2 20. Prior to initiating this action, Plaintiff's counsel retained a qualified accessibility  
3 investigator to conduct a pre-litigation, sub rosa site inspection of the subject property in order to  
4 verify Plaintiff's observations and determine whether sufficient grounds existed to proceed with  
5 a formal complaint. The inspection confirmed numerous accessibility barriers, many of which  
6 substantiated Plaintiff's personal experience, and others that reflected additional areas of serious  
7 noncompliance.

8 21. With respect to the parking area, the inspector noted that required signage was absent,  
9 including both International Symbol of Accessibility signs and tow-away warning signage. The  
10 surface slopes of both the parking spaces and access aisles exceeded the 2% maximum permitted  
11 under the ADA, and the painted "No Parking" warning was either faded or entirely unreadable.  
12 The layout also failed to provide a safe accessible route to the entrance from the two spaces  
13 located on the opposite side of the entrance drive, forcing wheelchair users to roll behind parked  
14 vehicles and across the driveway. The single accessible space located near the restaurant  
15 entrance lacked any access aisle at all.

16 22. Inside the facility, the bar area did not offer an accessible dining surface or designated  
17 ADA-compliant seating. Similarly, no accessible tables were identified in the indoor dining area  
18 or the outdoor patio. In the restroom, conditions were particularly egregious: there was no door  
19 signage indicating accessibility, insufficient clearance at the door, and no turnaround space  
20 within the wash area. The stall itself lacked both the required clear space for wheelchair access  
21 and compliant grab bars, and the urinals and sink did not provide accessible features or adequate  
22 knee clearance. These deficiencies collectively represent serious and systemic violations of  
23 federal accessibility standards, many of which would pose not just inconvenience but actual  
24 danger or humiliation to individuals with mobility impairments.

25 23. These individual barriers to access are listed without prejudice to Plaintiff citing  
26 additional barriers to access after more detailed inspection by Plaintiff's access consultant, per  
27 the 9<sup>th</sup> Circuit's standing standards under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9<sup>th</sup> Cir. 2008),



1 *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9<sup>th</sup> Cir. 2011).

2 24. Plaintiff initially approached this matter with restraint. While the conditions at the  
3 property were disappointing and problematic, Plaintiff's first instinct was to offer the benefit of  
4 the doubt. However that changed when Plaintiff learned after his visit that Tarpy's was subject to  
5 another ADA lawsuit in federal court in 2004 for many of the same violations alleged here.  
6 Nothing had been done, so this lawsuit followed.

7 25. In that prior action, Defendants were placed on direct notice of numerous accessibility  
8 failures — including the absence of compliant parking signage, lack of accessible routes, and  
9 significant interior noncompliance. These are not minor technicalities; they are core obligations  
10 under federal and state law. Yet despite that legal action, and the passage of 21 years, Defendants  
11 have failed to fix even the most visible and easily correctable elements. There is still no  
12 compliant signage. The slopes remain out of specification. The restrooms are, by any standard,  
13 wholly inaccessible. The accessible parking configuration is dangerous and improperly designed.  
14 Nothing has changed. This is not oversight. It is willful disregard.

15 26. This matter is not merely about architectural barriers or isolated design flaws; it reflects a  
16 systemic policy failure. What Plaintiff encountered here goes beyond faulty construction — it is  
17 a sustained pattern, policy, and practice of indifference. The fact that these violations persist two  
18 decades after prior litigation shows a deliberate refusal to institutionalize compliance.

19 27. Plaintiff has no confidence that any corrective action taken in response to this lawsuit will  
20 be permanent unless it is compelled by a federal court and subject to ongoing judicial oversight.  
21 Without such accountability, any accessibility features added now in response to this action, may  
22 not remain leaving future disabled persons to deal with this issue again, and then file their own  
23 lawsuit.

24 28. Plaintiff holds annual membership credentials to the Monterey Bay Aquarium and  
25 frequently travels along State Route 68—the same route on which Tarpy's is located—making it  
26 a natural and convenient dining stop during visits to the region. Plaintiff had every intention of  
27 returning in the future, especially after enjoying an excellent meal during his initial visit. The

1 food was outstanding, the atmosphere inviting, and the dessert offerings were especially  
2 tempting—so much so that Plaintiff had looked forward to returning just to try them. However,  
3 the subsequent discovery that the restaurant had been sued in 2004 for many of the same  
4 accessibility issues and still failed to remedy them has compelled Plaintiff to take action . The  
5 lack of basic restroom accessibility, in particular, is not just inconvenient—it is exclusionary and  
6 unsafe as a hygiene issue. Plaintiff would love nothing more than to return and support this  
7 establishment, but he is not willing to compromise his dignity or safety to do so. Until  
8 substantial, permanent corrections are made—and disabled patrons are shown respect through  
9 action, Plaintiff is deterred from returning.

10 29. Plaintiff alleges that it would be a futile gesture to attempt future visits while these  
11 barriers remain unremedied, but he anticipates that continued or attempted visits to the area will  
12 occur regularly following the filing of this Complaint. Accordingly, Plaintiff reserves the right to  
13 supplement this Complaint at the time of trial to address any subsequent events or instances of  
14 deterrence according to proof.

15 30. Defendants were aware or reasonably should have been aware, that certain aspects of  
16 their establishment and their policies made Tarry's inaccessible, constituting a violation of  
17 federal and state laws and hindering or denying access to individuals with mobility impairments.  
18 Based on available information, it is believed that Defendants possess the necessary financial  
19 means to eliminate these obstacles and make Tarry's accessible to people with physical  
20 disabilities. But Defendants have not taken action to remove these barriers or to ensure full and  
21 equal access to the facility.

22 31. As a result of Defendants, actions and missions, Plaintiff has suffered a violation of civil  
23 rights, difficulties, discomfort and/or embarrassment, and denial of full, and equal access to  
24 public facilities, entitling him to general, special, and statutory damages. Plaintiff has retained  
25 counsel and now seeks statutory attorney fees, litigation expenses, and costs under federal and  
26 state law.

27 32. Plaintiff's goal in this suit to make Tarry's fully accessible to persons with similar

mobility disabilities.

**FIRST CLAIM:**

**VIOLATION OF THE ADA, TITLE III**

**[42 U.S.C. §§ 12101 et seq.]**

33. Plaintiff repleads and incorporates by reference, as if fully set forth hereafter, the allegations contained in all paragraphs of this Complaint and incorporates them here as if separately repled.

34. Plaintiff was at all times relevant here a qualified individual with a disability as defined by the ADA, as he has impairments that substantially limit one or more major life activities.

35. Plaintiff has reasonable grounds for believing he will be subjected to discrimination each time he may attempt to access and use the subject facilities.

36. The subject property and facility are among the “private entities,” which are considered “public accommodations” for purposes of Title III of the ADA. 42 U.S.C. § 12181(7).

37. The acts and omissions of Defendants, as detailed in the in the preceding paragraphs and incorporated herein by reference, constitute multiple violations of Title III of the Americans with Disabilities Act (42 U.S.C. § 12181 et seq.) and the implementing regulations at 28 C.F.R. Part

36. Tarpy’s failed to remove readily achievable architectural barriers and failed to modify policies, practices, or procedures to provide full and equal access to guests with disabilities.

38. Each of the above barriers was independently sufficient to deny Plaintiff full and equal access, and collectively they demonstrate systemic noncompliance with the ADA and its regulations.

39. While the foregoing barriers reflect the detailed and tangible obstacles Plaintiff personally encountered during his visit to Tarpy’s, this list is not exhaustive. Plaintiff did not undertake a comprehensive facility-wide inspection, and the presence of one barrier may implicate multiple ADA provisions. Additional violations may exist or emerge through further investigation. These allegations are therefore stated without prejudice and may be supplemented as appropriate during discovery or trial.

1 40. Plaintiff alleges on information and belief that the Restaurant was designed and  
2 constructed (or both) after January 26, 1993 -- independently triggering access requirements  
3 under Title III of the ADA.

4 41. Here, Defendants violated the ADA by designing or constructing (or both) Tarpy's in a  
5 manner that did not comply with federal disability access standards even though it was  
6 practicable to do so.

7 42. The removal of each of the barriers complained of by Plaintiff were at all times here  
8 mentioned "readily achievable" under the standards §§12181 and 12182 of the ADA.

9 43. As noted throughout this Complaint, the removal of each of the architectural barriers  
10 complained of here was also required under California law.

11 44. Plaintiff alleges on information and belief that Tarpy's was modified after January 26,  
12 1992. Any alterations, structural repairs, or additions since January 26, 1992, have independently  
13 triggered requirements for the removal of barriers to access for disabled persons per § 12183 of  
14 the ADA.

15 45. Defendants have discriminated against Plaintiff in violation of Title III of the ADA by:  
16 (a) providing benefits that are unequal to that afforded to people without disabilities; (b) failing  
17 to make reasonable modifications in policies, practices, or procedures when such modifications  
18 are necessary to afford (and would not fundamentally alter the nature of) the goods, services,  
19 facilities, privileges, advantages, or accommodations of the Restaurant to individuals with  
20 disabilities; (c) failing to remove architectural barriers in existing facilities where such removal  
21 is readily achievable; and (d) where Defendants can demonstrate the removal of architectural  
22 barriers is not readily achievable, failing to make the goods, services, facilities, privileges,  
23 advantages, or accommodations of Tarpy's available through alternative methods if such  
24 methods are readily achievable. On information and belief, as of the date of Plaintiff's most  
25 recent visit to Tarpy's and as of the filing of this Complaint, the subject premises have denied  
26 and continue to deny full and equal access to Plaintiff and to other similarly mobility disabled  
27 persons in other respects, which violate Plaintiff's rights to full and equal access and which

1 discriminate against him on the basis of his disability, thus wrongfully denying him the full and  
2 equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations, in  
3 violation of §§ 12182 and 12183 of the ADA.

4 46. The ability to safely park, enter, exit, and dine at Tarpy's without encountering  
5 accessibility barriers is a fundamental necessity. Without this ability, Plaintiff cannot fully and  
6 equally access the goods and services offered at Tarpy's. The benefits of ensuring accessibility  
7 far outweigh the costs of removing readily achievable barriers. These costs are intrinsic to  
8 operating a public accommodation, akin to other essential business functions. Therefore,  
9 removing these barriers is readily achievable. Based on publicly available information, Tarpy's is  
10 valued at over one million dollars, indicating substantial financial resources to cover the modest  
11 costs of modifications. Furthermore, the Department of Justice has identified many of these types  
12 of barriers as presumptively readily achievable to remove.

13 47. Under the ADA, 42 U.S.C. 12188 *et seq.*, Plaintiff is entitled to the remedies and  
14 procedures set forth in § 204(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000(a)-3(a), as he is  
15 being subjected to discrimination based on disability in violation of the ADA or has reasonable  
16 grounds for believing that he is about to be subjected to discrimination.

17 48. Plaintiff seeks relief under remedies set forth in § 204(a) of the Civil Rights Act of 1964,  
18 42 U.S.C. 2000(a)-3(a), and under Federal Regulations adopted.

19 49. Plaintiff brings this action, not only to remedy the specific discriminatory conditions he  
20 encountered, but also to secure equal access for others as assembly affected. As a private  
21 attorney general, Plaintiff seeks to enforce rights conferred by federal law for the benefit of the  
22 public at large, and to ensure that defendant facilities compliant with accessibility requirements  
23 going forward.

24 WHEREFORE, Plaintiff requests relief as outlined below.

25 //

26 //

27 //

**SECOND CLAIM:**

**VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

**[Cal. Civil Code §§ 51 et seq.]**

50. Plaintiff repleads and incorporates by reference, as if fully set forth again here, the allegations contained in all paragraphs of this Complaint and incorporates them here by reference as if separately repled hereafter.

51. Tarpy's is a business establishment under the Unruh Act.

52. Defendants are the owner and/or operators of a business establishment.

53. Defendants violated the Unruh Act by their acts and omissions:

- Failure to construct or alter Tarpy's in compliance with state building code and state architectural requirements;
- Failure to remove known barriers to access at Tarpy's;
- Failure to modify policies and procedures as necessary to ensure Plaintiff full and equal access to the accommodations, advantages, facilities, privileges, or services of Tarpy's; and
- Violation of the ADA, a violation of which is a violation of the Unruh Act. Cal. Civil Code § 51(f).

54. Plaintiff has experienced barriers to access at Tarpy's, all of which have caused him difficulty, discomfort, and embarrassment.

55. On information and belief, Tarpy's is also illegally inaccessible in multiple other respects. As noted above, the barriers to access described in this Complaint are listed without prejudice to Plaintiff citing additional barriers to access after inspection by Plaintiff's access consultant(s)/expert(s).

56. These barriers to access render Tarpy's and its premises inaccessible to and unusable by persons with mobility disabilities. All facilities must be brought into compliance with all applicable federal and state code requirements, according to proof. Plaintiff prays for leave to amend this Complaint, if necessary, to obtain full injunctive relief as to barriers that limit or deny

1 full and equal access to persons with similar mobility disabilities.

2 57. Each violation of the ADA constitutes a separate violation of California Civil Code §  
3 51(f), thus independently justifying an award of damages and injunctive relief under California  
4 law, including, but not limited to, Civil Code § 52(a).

5 58. As for Defendants' violations of the Unruh Act that are not predicated on violations of  
6 the ADA, Defendants' behavior was intentional: they were aware of or were made aware of their  
7 duties to remove barriers that prevent persons with mobility disabilities like Plaintiff from  
8 obtaining full and equal access to Tarpy's. Defendants' discriminatory practices and policies that  
9 deny full enjoyment of Tarpy's to persons with physical disabilities reveal actual and implied  
10 malice and conscious disregard for the rights of Plaintiff and other similarly disabled individuals.  
11 Defendants have thus engaged in willful affirmative misconduct in violating the Unruh Act.

12 59. On information and belief, the access features of Tarpy's have not been improved since  
13 Plaintiff's visits there. Plaintiff's injuries are ongoing so long as Defendants do not modify their  
14 policies and procedures and provide fully accessible facilities for Plaintiff and other persons with  
15 similar mobility disabilities.

16 60. At all times mentioned, Defendants knew, or in the exercise of reasonable diligence  
17 should have known, that his barriers, policies and practices at its facilities violated disabled  
18 access requirements and standards and had a discriminatory impact upon Plaintiff and upon other  
19 persons with similar mobility disabilities, but Defendants failed to rectify the violations, and  
20 presently continues a course of conduct in maintaining barriers that discriminate against Plaintiff  
21 and similarly situated disabled persons.

22 WHEREFORE, Plaintiff requests relief as outlined below.

23 **THIRD CLAIM:**

24 **VIOLATION OF THE CALIFORNIA HEALTH AND SAFETY CODE**

25 **[Cal. Health and Safety Code §§19955 *et seq.*]**

26 61. Plaintiff repleads and incorporates by reference, as if fully set forth hereafter, the  
27

1 allegations contained in all paragraphs of this Complaint and incorporates them herein as if  
 2 separately replied.

3 62. Health & Safety Code §19955 provides in pertinent part:

4 The purpose of this part is to ensure that public accommodations or facilities  
 5 constructed in this state with private funds adhere to the provisions of Chapter 7  
 6 (commencing with Sec. 4450) of Division 5 of Title 1 of the Government Code.  
 7 For the purposes of this part “public accommodation or facilities” means a  
 8 building, structure, facility, complex, or improved area which is used by the  
 9 general public and shall include auditoriums, hospitals, theaters, restaurants,  
 hotels, motels, stadiums, and convention centers. When sanitary facilities are  
 made available for the public, clients or employees in such accommodations or  
 facilities, they shall be made available for the handicapped.

10 63. Health & Safety Code §19956, which appears in the same chapter as §19955, provides in  
 11 pertinent part, “accommodations constructed in this state shall conform to the provisions of  
 12 Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the Government Code ...”

13 Health & Safety Code §19956 was operative July 1, 1970, and applies to all public  
 14 accommodations constructed or altered after that date.

15 64. On information and belief, portions of Tarpy’s and/or of the building(s) were constructed  
 16 and/or altered after July 1, 1970, and substantial portions of Tarpy’s and/or the building(s) had  
 17 alterations, structural repairs, and/or additions made to such public accommodations after July 1,  
 18 1970, thereby requiring Tarpy’s to be subject to the requirements of Part 5.5, §19955, *et seq.*, of  
 19 the Health & Safety Code upon such alteration, structural repairs or additions per Health &  
 20 Safety Code §19959.

21 65. Under the authority delegated by Government Code §4450, *et seq.*, the State Architect  
 22 promulgated regulations for the enforcement of these provisions. Effective July 1, 1982, Title 24  
 23 of the California Building Standards Code adopted the California State Architect’s Regulations,  
 24 and these regulations must be complied with as to any alterations and/or modifications of  
 25 Tarpy’s and/or the building(s) occurring after that date. Construction changes before this date but  
 26 after July 1, 1970 triggered access requirements under the “ASA” requirements, the American  
 27 Standards Association Specifications, A117.1-1961.



66. On information and belief, at the time of the construction and modification of said building, all buildings and facilities covered were required to conform to each of the standards and specifications described in the American Standards Association Specifications and/or those contained in the California Building Code.

67. Tarp's is a "public-accommodations or facilities" within the meaning of Health & Safety Code §19955, *et seq.*

68. As a result of the actions and failure to act of Defendants, and because of the failure to provide proper and legally accessible public facilities, Plaintiff was denied Plaintiff's right to full and equal access to public facilities and suffered a loss of civil rights and rights as a person with physical disabilities to full and equal access to public facilities.

WHEREFORE, Plaintiff requests relief as outlined below.

**FOURTH CLAIM:**

**VIOLATION OF THE CALIFORNIA DISABLED PERSONS ACT**

**[Cal. Civil Code §§ 54 *et seq.*]**

69. Plaintiff repleads and incorporates by reference, as if fully set forth hereafter, the allegations contained in all paragraphs of this Complaint and incorporates them herein as if separately repled.

70. Tarp's is a place of public accommodation and/or places to which the public is invited and, as such, must comply with the California Disabled Persons Act ("CDPA"), California Civil Code § 54 *et seq.*

71. The CDPA guarantees, among other things, that persons with disabilities have the same right as the public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places. California Civil Code § 54.

72. The CDPA also guarantees, among other things, that persons with disabilities have a right to full and equal access, as other members of the public, to accommodations, advantages, facilities, and privileges of covered entities. California Civil Code § 54.1(a) (1).

73. The CDPA also provides that a violation of the ADA is *a per se* violation of CDPA,

1 California Civil Code § 54.1(d).

2 74. Defendants have violated the CDPA by, among other things, denying and/or interfering  
3 with Plaintiff right to full and equal access as other members of the public to the  
4 accommodations, advantages, and its related facilities due to his disability.

5 WHEREFORE, Plaintiff requests relief as outlined below.

6 **PRAYER FOR RELIEF:**

7 1. Plaintiff has no adequate remedy at law to redress the wrongs suffered as set forth in this  
8 Complaint. Plaintiff has suffered and will continue to suffer irreparable injury because of the  
9 unlawful acts, omissions, policies, and practices of the Defendants as alleged herein, unless  
10 Plaintiff is granted the relief he requests. Plaintiff and Defendants have an actual controversy and  
11 opposing legal positions as to Defendants' violations of the laws of the United States and the  
12 State of California. The need for relief is critical because the rights at issue are paramount under  
13 the laws of the United States and the State of California.

14 WHEREFORE, Plaintiff prays for judgment and the following specific relief against  
15 Defendants:

16 2. Issue a declaratory judgment that Defendants' actions, omissions, and failures violate and  
17 continue to violate the law, including, but not limited to, the following: failing to construct  
18 and/or alter the subject premises in compliance with applicable federal and state access  
19 regulations/codes/requirements, failing to remove access barriers where "readily achievable,"  
20 failing to make reasonable modifications in policy and practice for Plaintiff and other similarly-  
21 situated disabled persons;

22 3. Issue a preliminary and permanent injunction enjoining Defendants, their agents,  
23 officials, employees, and all persons and entities acting in concert with them:

- 24 a. From continuing the unlawful acts, conditions, and practices described in this  
25 Complaint;
- 26 b. To provide reasonable modifications in policies and practices for persons with  
27 mobility disabilities to ensure access to all services, facilities, and

- 1 accommodations at Tarpy's;
- 2 c. To modify Tarpy's and related facilities to provide full and equal access to
- 3 persons with mobility disabilities, including removal of all barriers that violate
- 4 applicable federal and state access regulations, codes, and requirements;
- 5 d. To maintain such accessible features once they are provided;
- 6 e. To train Defendants' employees and agents on how to accommodate the rights
- 7 and needs of mobility disabled persons; and
- 8 f. To implement nondiscrimination protocols, policies, and practices to ensure full
- 9 and equal access for persons with mobility disabilities;
- 10 4. Retain jurisdiction over the Defendants until the Court is satisfied that Defendants'
- 11 unlawful policies, practices, acts, omissions, failure to maintain accessible public facilities as
- 12 complained of herein no longer occur, and cannot recur;
- 13 5. Award to Plaintiff all appropriate damages, including, but not limited to, statutory
- 14 damages, general damages, treble damages, and punitive damages in amounts within the
- 15 jurisdiction of the Court, all according to proof;
- 16 6. Award to Plaintiff all reasonable statutory attorney fees, litigation expenses, and costs of
- 17 this proceeding as provided by law;
- 18 7. Award pre- and post-judgment interest as permitted by law; and
- 19 8. Grant any other relief that this Court may deem just and proper.
- 20
- 21

22 Date: July 9, 2025

IRAKLI KARBELASHVILI  
ALLACCESS LAW GROUP

23  
24  
25 /s/ Irakli Karbelashvili  
By IRAKLI KARBELASHVILI, Esq.  
Attorney for Plaintiff  
26 JAMES ALGER  
27

**JURY DEMAND**

Plaintiff demands a trial by jury for all claims for which a jury is permitted.

Date: July 9, 2025

IRAKLI KARBELASHVILI  
ALLACCESS LAW GROUP

/s/ Irakli Karbelashvili  
By IRAKLI KARBELASHVILI, Esq.  
Attorney for Plaintiff  
JAMES ALGER